

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)
)
) Case No. 1:08CR00041
)
v.)
) **OPINION AND ORDER**
)
CHARLES JERMAINE KING,)
) By: James P. Jones
) Chief United States District Judge
Defendant.)

Zachary T. Lee, Assistant United States Attorney, Abingdon, Virginia, for United States; David S. Saliba, Wytheville, Virginia, for Defendant.

The defendant has filed a pretrial Motion to Dismiss Indictment, in which he alleges that one of his codefendants, Paul Vaughn, testified before the grand jury that indicted him and has since recanted that testimony. The defendant is charged with participating in a drug trafficking conspiracy. Vaughn pleaded guilty to that charge and has testified at earlier trials of coconspirators on behalf of the government.

The record does reflect that the court has recently received letters purportedly from Vaughn, in which it is stated that he lied in his earlier testimony. In addition, the court has granted a motion by his attorney that Vaughn be examined as to his present competency.

While there is not unanimity among the circuits as to claims of indictment based on alleged perjured testimony,¹ I find that there has not been a sufficient showing here that would justify the dismissal of the Indictment against the defendant in this case.

Accordingly, it is **ORDERED** that the Motion to Dismiss Indictment is DENIED.

ENTER: May 11, 2009

/s/ JAMES P. JONES
Chief United States District Judge

¹ Compare, e.g., *United States v. Basurto*, 497 F.2d 781, 784 (9th Cir. 1974), with *United States v. Reyes-Echevarria*, 345 F.3d 1, 5 (1st Cir. 2003).